

§ 404.650

33 CFR Ch. IV (7–1–97 Edition)

shall be final and binding upon the Director, except as provided in § 404.650.

[29 FR 11595, Aug. 13, 1964, as amended at 32 FR 14222, Oct. 13, 1967. Redesignated and amended at 61 FR 32655, June 25, 1996]

§ 404.650 Review of Administrative Law Judge's initial decision.

(a) The Administrator may, on his own motion, or on the basis of a petition filed by the U.S. Registered Pilot in the proceedings or the Director, review any initial decision of the Administrative Law Judge by entering a written order stating that he elects to review the action of the Administrative Law Judge. Copies of all orders for review, replies, and decisions shall be served on all parties.

(b) A petition for review shall be in writing and shall state the grounds upon which the petition relies. A petition for review shall be limited to the record before the Administrative Law Judge. Five (5) copies of such a petition for review, together with proof of service on all parties, shall be filed with the Administrator (CL) within fifteen (15) days after the date of service of the initial decision of the Administrative Law Judge. Parties may file replies, in writing, to a petition for review, with proof of service on other parties in the same manner and number of copies as is provided for filing of a petition for review and within ten (10) days after the date the petition for review is timely filed. A reply shall be limited to the record before the Administrative Law Judge and the petition for review.

(c) If a petition for review is filed within the time prescribed, the initial decision of the Administrative Law Judge shall be final fifteen (15) days after expiration of the time prescribed for filing a reply thereto unless the Administrator prior to expiration of the fifteen (15) days after expiration of the time prescribed for filing a reply thereto enters a written order granting the petition for review. If no petition for review is filed within the time prescribed and the Administrator does not elect to review on his own motion, the initial decision of the Administrative Law Judge shall be final twenty (20) days after the date of service of the decision.

(d) If the Administrator reviews the initial decision as provided in this section, he shall issue a written order affirming, amending, overruling, or remanding the initial decision of the Administrative Law Judge within thirty (30) days after the date on which he takes review. There is no other administrative remedy within the Department of Transportation.

(e) When the Administrator has sustained an order of suspension or revocation of a registration, the respondent may appeal to the National Transportation Safety Board under 49 CFR 825.5 within ten (10) days after service of the Administrator decision.

[32 FR 14222, Oct. 13, 1967, as amended by CGD 76–189, 42 FR 31160, June 20, 1977; 61 FR 5721, Feb. 14, 1996. Redesignated at 61 FR 32655, June 25, 1996]

Subpart G—Operating Requirements for U.S. Registered Pilots and Holders of Certificates of Authorization; Authority of the Director Over Operations

§ 404.700 Operating requirements for U.S. registered pilots.

Each U.S. registered pilot shall—

- (a) Provide pilotage service when dispatched by his pool; and
- (b) Comply with the dispatching orders of the Director under § 404.720 (b).

[CGD 74–233, 40 FR 41527, Sept. 8, 1975. Redesignated and amended at 61 FR 32655, June 25, 1996]

§ 404.710 Operating requirements for holders of Certificates of Authorization.

Each holder of a Certificate of Authorization shall—

- (a) Comply with the terms of any agreement for services by registered pilots on the Great Lakes between an appropriate agency of Canada and the Secretary, his designated agent, or the Director;
- (b) Coordinate on a reciprocal basis its pool operations with pool operations of the Canadian Government, under the “Memorandum of Arrangements, Great Lakes Pilotage, Between the Secretary of Transportation of the

United States of America and the Minister of Transport of Canada”, effective July 7, 1970, as amended;

(c) Provide continuous arrangements and facilities for the efficient dispatching of pilotage service on a first-come, first-serve basis to vessels that give notice of pilotage service requirements to the pilotage dispatch station, except pilots are not required to board a vessel that does not furnish safe boarding facilities;

(d) Dispatch pilotage service under the terms of its approved working rules as referenced in § 405.320;

(e) Comply with its working rules approved under § 405.320, except to the extent inconsistent with the dispatch orders of the Director under § 404.720(b);

(f) Comply with all accounting procedures and the reporting requirements in this chapter; and

(g) Make available to the Director all of its financial and operating records.

[CGD 74-233, 40 FR 41527, Sept. 8, 1975, as amended at 61 FR 5721, Feb. 14, 1996. Redesignated and amended at 61 FR 32655, June 25, 1996]

§ 404.720 Authority of the Director over operations.

(a) This section does not limit the authority of the Director under any other section in this chapter.

(b) When pilotage service is not provided by the association authorized under 46 U.S.C. 216b(e) because of a physical or economic inability to do so, or when the Certificate of Authorization is under suspension or revocation under § 404.335, the Director may order any U.S. registered pilot to provide pilotage service.

[CGD 74-233, 40 FR 41527, Sept. 8, 1975, as amended by CGD 75-228, 40 FR 57673, Dec. 11, 1975. Redesignated and amended at 61 FR 32655, June 25, 1996]

PART 405—GREAT LAKES PILOTAGE RULES AND ORDERS

Subpart A—General

Sec.

405.100 Purpose.

Subpart B—Registration of Pilots

405.210 Requirements and qualifications for registration.

405.220 Registration of pilots.

Subpart C—Establishment of Pools by Voluntary Associations of United States Registered Pilots

405.320 Working rules.

AUTHORITY 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

Subpart A—General

§ 405.100 Purpose.

The purpose of this part is to implement those provisions of the Great Lakes Pilotage Regulations (part 404 of this chapter) which authorize or require the Director to issue supplementary rules and orders.

[27 FR 11947, Dec. 4, 1962, as amended at 32 FR 14223, Oct. 13, 1967; 61 FR 5721, Feb. 14, 1996. Redesignated and amended at 61 FR 32655, June 25, 1996]

Subpart B—Registration of Pilots

§ 405.210 Requirements and qualifications for registration.

(a) Pursuant to § 404.210(a)(4), each applicant for an original registration at the time of application and each Registered Pilot annually is required to pass a physical examination given by a licensed medical doctor and reported on the form furnished by the Director. The examination report shall describe the applicant's or Registered Pilot's visual acuity, color sense, physical condition, and competency or perform the duties of a U.S. Registered Pilot.

(b) Any disease, physical or mental defect, or impairment to hearing or visual acuity, such as epilepsy, insanity, senility, acute venereal disease, neurosyphilis, hemiplegia, paralysis or missing arm, leg, or eye, muteness or pronounced speech impairment, acute kidney or gastro-enteritis disease, extreme obesity, addiction of alcohol or narcotics, acute varicosity of the legs, cardiovascular disease or other disorder which would impair the applicant's ability to be available for service when required and to withstand the rigors of boarding vessels, climbing ladders or great heights, standing for long periods of time, and performing his duties under prolonged periods of